

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010100785

ORDER GRANTING DISTRICT'S
MOTION TO DISMISS

On October 18, 2010, Student filed a request for due process hearing (complaint), naming the Los Angeles Unified School District (District) as respondent. On November 22, 2010, District filed a motion to hold Student's due process hearing in abeyance, contending that Student's parent (Parent) failed to attend a mandatory resolution session, despite District's reasonable efforts to schedule one. On December 2, 2010, the Office of Administrative Hearings (OAH) issued an order granting District's motion, and ordered the parties to attend a resolution session at 9:30 a.m. on December 14, 2010, the date and time calendared for the due process hearing in this matter. The order also warned that Student's complaint would be subject to dismissal should Parent fail to attend the resolution session.

On December 14, 2010, at the time scheduled for the resolution session, Parent failed to attend. Later that day, District filed a motion to dismiss Student's complaint, which contained sworn evidence of District's prior attempts to schedule a resolution session, as well as Parent's failure to attend the December 14, 2010 session ordered by OAH. Student filed no opposition.

APPLICABLE LAW

A local educational agency (LEA) is required to convene a meeting with the parents and the relevant members of the Individualized Education Program (IEP) team within 15 days of receiving notice of the Student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1).) The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation. (34 C.F.R. § 300.510(a)(3).) If the parents do not participate in the resolution session, and it has not been otherwise waived by the parties, a due process hearing shall not take place until a resolution session is held. (34 C.F.R. § 300.510(b)(3).) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the complaint. (34 C.F.R. §300.510(b)(4).)

DISCUSSION

District's motion, supported by the sworn declaration of District's counsel, My T. Huynh, indicates that Parent did not attend the resolution session scheduled for December 14, 2010, despite OAH's previous order requiring Parent to do so. In addition, District established that it made reasonable efforts to obtain Parent's participation in a resolution session prior to filing its motion to dismiss, and it documented those reasonable efforts in its motion. Moreover, there was no agreement to waive the resolution or proceed to mediation in lieu of the resolution session in this case. Finally, Student did not respond to District's motion to dismiss, or otherwise provide OAH with an adequate reason for failing to participate in the ordered resolution session. Accordingly, District's motion to dismiss Student's complaint is granted.

ORDER

District's motion to dismiss is granted, and the matter is dismissed.

Dated: December 21, 2010

/s/

CARLA L. GARRETT

Administrative Law Judge

Office of Administrative Hearings